

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

AMY L. HINDERLITER

Claimant

VS.

**MEGA MANUFACTURING, INC.,
GREAT BEND MANUFACTURING CO., and
PERKINS FAMILY RESTAURANTS**

Respondents

AND

**CIGNA INSURANCE COMPANIES,
LIBERTY MUTUAL INSURANCE CO., and
KANSAS RESTAURANT AND HOSPITALITY
ASSOCIATION SELF INSURANCE FUND**

Insurance Carriers

Docket No. 227,021

ORDER

Both Great Bend Manufacturing Co. and Mega Manufacturing, Inc., and their insurance carriers requested review of the preliminary hearing Order dated October 13, 1997, entered by Administrative Law Judge Bruce E. Moore.

ISSUES

The Administrative Law Judge granted claimant's request for temporary total disability and medical benefits and ordered the cost of those benefits be borne jointly and severally by Great Bend Manufacturing Co. and Mega Manufacturing, Inc. The issue now before the Appeals Board on this review is which respondent and insurance carrier should be responsible for payment of claimant's temporary total disability and medical benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds as follows:

The preliminary hearing Order should be modified.

Under K.S.A. 44-534a, as amended, the Appeals Board has the jurisdiction and authority to review preliminary hearing findings pertaining to whether an employee has sustained an accidental injury and whether that injury arose out of and in the course of claimant's employment. Therefore, the Appeals Board has the authority to review the issue of which respondent and insurance carrier is responsible for providing claimant the medical benefits and temporary total disability benefits to which she is entitled.

The Appeals Board finds claimant's present need for medical treatment is directly related to the work-related accidental injury of June 12, 1996, while claimant was employed by Mega Manufacturing, Inc. After that accident and related arthroscopic surgery on the right knee, claimant experienced ongoing symptoms of pain and discomfort in that joint. Because the incidents which occurred in January 1997 and May 1997 while claimant was working for Great Bend Manufacturing Co. and Perkins Family Restaurants, respectively, did not involve significant, identifiable, traumatic events, based upon the evidence introduced to date the Appeals Board finds it is more probably true than not that those incidents were merely symptom flareups and the natural consequence of the original injury rather than new and distinct accidental injuries. Therefore, for preliminary hearing purposes and based upon the record as it presently exists, the medical treatment which claimant presently needs and disability compensation which claimant may be entitled should be provided by the respondent Mega Manufacturing, Inc., and its insurance carrier CIGNA Insurance Companies.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated October 13, 1997, entered by Administrative Law Judge Bruce E. Moore should be, and hereby is, modified to place sole responsibility for those benefits awarded in that Order upon the respondent Mega Manufacturing, Inc., and its insurance carrier CIGNA Insurance Companies. In all other regards the Order should be affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1997.

BOARD MEMBER

c: John Sherman, Ellsworth, KS
Vincent A. Burnett, Wichita, KS
Jerry M. Ward, Great Bend, KS
Jeffery R. Brewer, Wichita, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director